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ABSTRACT

A charter school is an autonomous educational entity operating under a contract negotiated between the organizers who manage the school (teachers, parents, or others from the public or private sector) and the sponsors who oversee the provisions of the charter (local school boards, state education boards, or some other public authority). The premise that underlies the charter school idea is that this innovation will free schools from the uniformity and confines of top-down regulations and mandates. Eleven states have charter school legislation, but only 6 of those charter laws are considered to be "alive." The possibilities for charter schools in Pennsylvania appear quite bright. In states where charter schools have been adopted, a number of challenges have developed, four of which are prominent. The first is the necessity for new relationships to be developed between school boards and schools. The second is that charter schools must use true site-based decision making. A third challenge is that charter schools must, and will, provide new roles for teachers, and the final challenge is that charter school legislation will also generate fear among educators that it will be a back door for private school vouchers. In Pennsylvania, as in other states, the charter school innovation must not be seen as an instant panacea. Nevertheless, charter schools offer an avenue to bring together some of the most promising educational reform ideas to create highly autonomous and accountable learning environments. (Contains one table comparing charter school legislative approaches.) (SLD)

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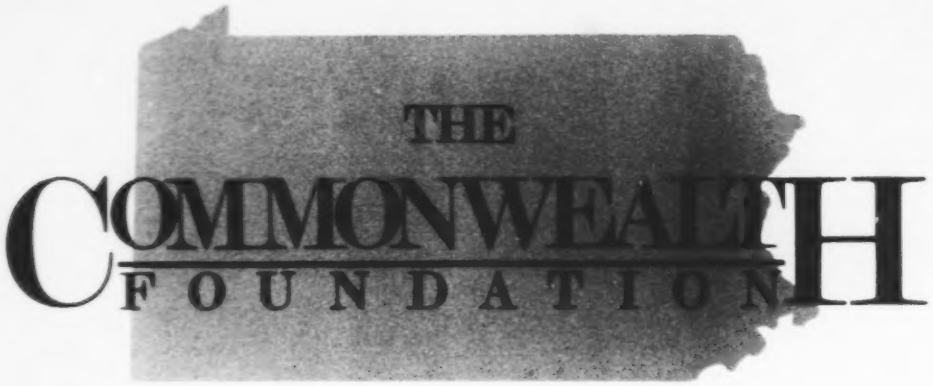

for Public Policy Alternatives

CHARTER SCHOOLS: A NATIONAL INNOVATION FOR PENNSYLVANIA

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INTRODUCTION

During his first Budget Address to the General Assembly, Governor Tom Ridge, the newly elected chief executive of Pennsylvania, acknowledged the need for fundamental reform of the state's educational system by declaring, "We must do things differently." Throughout his gubernatorial campaign, Ridge maintained that the Commonwealth's educational system was in need of repair. As a candidate, Ridge advocated instituting some type of educational choice plan along with the establishment of charter schools.

In his Budget Address, Governor Ridge seized upon these themes as initiatives that his Administration will be developing. The charter school concept, as one educational analyst observed, "is an educational innovation that is developing with lightning speed."[1] In fact, the cover of *Time* magazine on October 31, 1994, declared charter schools as a "New Hope for Public Schools."

CURRENT STATUS

The appearance of a *Time* cover story on this educational concept was a recognition that it had entered the "mainstream" of educational reform ideas. Minnesota's state government adopted the nation's first charter school law in 1991. Since that time, ten other states have followed Minnesota's example, and at this writing, at least 18 state legislatures are considering charter school legislation that has been introduced. Support for charter school legislation has come from both major political parties.

California passed charter school legislation in 1992 and became the second state in the country with charter school legislation. Six states approved this educational reform idea in 1993--Colorado, Georgia, Massachusetts, Michigan, New Mexico, and Wisconsin. Another three states followed suit in 1994--Arizona, Hawaii, and Kansas.

Even though 11 states have charter school legislation, only six of these charter laws are considered to be "alive." These six states have seen considerable activity occur under the auspices of its legislation. In these states proposals appear, charters are granted, schools open, students enroll, and districts begin to respond with their own improvements. These six states include Arizona, California, Colorado, Massachusetts, Michigan, and Minnesota.

The remaining five states with charter school legislation--Georgia, Hawaii, Kansas, New Mexico, and Wisconsin--have witnessed little charter activity. Wisconsin's statute, however, is being reviewed, and may be revised in order to spur charter activity in the state.

Presently, 18 states are considering the charter school idea. These states include the following: Connecticut, Delaware, Florida, Idaho, Illinois, Indiana, Louisiana, Missouri, Nevada, New Hampshire, New Jersey, Ohio, Oregon, Pennsylvania, South Carolina, Texas, Vermont, and Washington. Although sites in the Great Lakes area have been the center of charter school activity, the idea is now receiving its first serious consideration on a widespread basis in the South. The November 1994 elections have also produced a new climate for the charter school debate. More than 20 state legislative chambers have seen a switch in partisan control. These election results have broken up old power structures and have brought new state leaders and ideas into the spotlight.

Ted Kolderie of the Center For Policy Studies in St. Paul, Minnesota believes that these election results will trigger more immediate interest in the educational voucher idea; a mechanism that provides additional public financing to private education. The concept of charter schools appeals to Kolderie, however, because it represents a new form of public education. He believes it represents the "middle way" between the status quo and vouchers.[2] Of course, it may also be used as a measure to improve education that supplements educational vouchers and the reform activity catalyzed by them.

DEFINITION

Charter schools are a new form of public education. Indeed, these facilities are publicly funded schools that are more or less self-governing.

A charter school is an autonomous educational entity operating under a contract negotiated between the organizers who manage the school (teachers, parents, or others from the public or private sectors) and the sponsors who oversee the provisions of the charter (local school boards, state education boards, or some other public authority).

The premise that underlies the charter school idea is that this innovation will free schools from the uniformity and confines of top-down regulations and mandates. Except for basic state and federal health, safety, and non-discrimination laws, charter schools operate unencumbered by bureaucracy. Therefore, charter schools possess the ability to redesign all the elements of a school--budget, curriculum, personnel, and schedule. Charter schools are chosen by parents, rather than enrolled by involuntary student assignment.

THE CHALLENGE

Charter schools force educators to question the wisdom of conventional educational practices and procedures. This process may create new dynamics that will foster change within an entire school system. This potential frequently exists because charter schools normally integrate various reform ideas that have not been able to produce systematic change by themselves.

Charter schools can also assist state educational systems with six problem areas:

- The resolution of the school autonomy struggle in a way that traditional site-based decisionmaking has not done.
- The creation of "real" choices within the public school arena for students, parents, and teachers.
- The development of new professional opportunities for teachers.
- The empowerment of local school boards to overcome micro-management tendencies and to become true policy boards.
- The elimination of real and perceived barriers to innovation through blanket

waivers of most state laws and policies.

- The improvement of educational planning by focusing on outcomes, not inputs.

Charter laws reflect a dramatic shift in education policy and a radical departure from the way public schools have typically been governed. For a generation, administrators, legislators, and reformers have attempted to improve school performance by mandating curricula, shrinking class sizes, paying teachers more, and setting hour requirements for continuing professional development. Across the country, billions of dollars have poured into such reforms with few improvements in student achievement. Rather than being regulated by state mandates, charter schools are regulated by their performance in achieving mutually determined goals.

The performance goals for students must be specified by charter school applicants, and a charter school's existence hinges on meeting these goals. Charters are normally granted for an initial period of three to five years. If the schools fail to meet their specified goals in a given period of time, the school's charter is rescinded.

In addition to closing due to poor performance, charter schools may also be closed for lack of student enrollment. If a charter school fails to attract a sufficient number of students, it will close just like any private business.

The focus of charter schools is not to create a few "models" that can later be replicated in the public school system. Charter schools instead hope to foster competition and supply-side forces in the educational marketplace. By allowing new "suppliers" into public education, encouraging them to differentiate themselves to attract students, and holding them accountable for results, charter schools create a level of competition in the public sector that might lure even more entrants into the marketplace. Competition for students will force schools to examine their operations and results in an effort to improve.

The charter school innovation, therefore, is not just another education reform model; it is a new conception of how a public enterprise is structured. Charter schools seek to redefine public education by who is being served rather than who provides the service. Consequently, this movement is like many privatization efforts that attempt to "contract out" services in order to provide higher levels of efficiency and effectiveness.

COMMON CHARACTERISTICS

Although charter schools vary among states and localities, certain elements that they have in common improve learning environments and positively influence the educational system. These desired characteristics are set forth below:

1) At least one other public authority besides a local school board is able to sponsor the school.

2) The state allows a variety of public or private individuals/groups the opportunity to organize, seek sponsorship, and operate a charter school.

3) The charter school is a discrete legal entity.

4) The charter school embraces the ideals of the common school--nonsectarian in programs and operations, tuition-free, nonselective in admissions, nondiscriminatory in practices, and accountable to a public body.

5) Each charter school is accountable to parents and its sponsoring public authority for the performance of its students.

6) Every charter school is exempted from all state and local laws and regulations except those tied to health, safety, and nondiscrimination.

7) A charter school is a school of choice for students, parents, and teachers; no one is forced to be there.

8) Each charter school receives the full operating funds associated with its student enrollment from its state government.

9) Teachers may be employees of the charter school, but they may also be owners or subcontractors.[3]

As of July 1994, none of the 11 state charter school laws incorporated all of these nine elements. This situation has developed due to the necessity of forging political compromises while adopting these statutes; compromises were frequently needed due to the revolutionary nature of the concept. In the course of state lawmaking, four broad areas have attracted the most attention: 1) sponsorship options, 2) legal autonomy questions, 3) funding formulas, and 4) protection given to teachers.[4]

HISTORY

Many charter school activists and educational observers credit Ray Budde for being the first to coin the term "charter schools" in his 1988 book, *Education By Charter*. All the kudos for developing this concept, however, should not be given to Budde. The idea of creating public schools with more independent governance structures had been in circulation much longer. The charter schools movement finds its roots in the "restructuring movement." This movement traces its origins to the aims of being more responsive to the students and the teachers, and to making management more "site-based."

Notably, the British possess a similar educational practice--the "grant maintained" schools. British "grant maintained" schools opt out of the government-run system and are funded by a lump-sum payment from London.

During the 1970s in the United States, two phenomena were making the public ripe for the type of educational reform embodied in the charter school concept. First, the county was in the grips of a nationwide recession that forced state lawmakers to examine their budgets more

carefully. Second, business leaders began to question the effectiveness of American education when compared to the educational systems of other countries. Doubts and concerns over American education crystallized in 1983 with the publication of *A Nation At Risk*. While the theorists had their say about the shortcomings of American education in this work, "real-world" managers at such corporations as Motorola were also increasingly concerned with the quality of the nation's workforce. These concerns inevitably led to Motorola's massive worker-retraining program.

THE FUTURE OF CHARTER SCHOOLS

In states where charter school legislation has been adopted, a number of challenges have developed that need to be dealt with by educational professionals. Four challenges are prominent and should be examined.

The first challenge is the necessity for new relationships to be developed between school boards and the schools. When a charter school statute becomes operational, local school boards and the central administrative offices of school districts are apt to discover that their roles and responsibilities have been greatly altered.

Some states, for example, limit school board authority over charter schools to contract oversight, while other states terminate school board authority if the school's sponsor is not the local school board. Nonetheless, some school board authorities see future opportunities for school boards under state charter legislation. The executive director of the Colorado Association of School Boards, Randy Quinn, argues that charter schools represent:

> . . . a dramatic, very fundamental difference, one that forces the school board to reexamine its role. Rather than serving as provider, the board has an opportunity to become the *purchaser* of education services on behalf of the citizens of a community served by the board.[5]

Second, charter schools must utilize true site-based decisionmaking. This item is a challenge because each school district has to determine whether its personnel and adequately prepared to manage what is really a small business.

Even though a great deal of lip service is paid to site-based decisionmaking practices in many school districts, most current school-based decisions focus on curriculum and involve only a small amount of discretionary funding. This situation arises in many districts from the fact that school boards remain legally responsible for decisions.

In the ideal circumstance, charter schools are legally and financially autonomous. Thus, charter school personnel gain greater control over their professional lives and the education they offer to their students. This increased responsibility focuses attention on whether school personnel are prepared for these responsibilities. Currently, most principals focus their energies on instructional activities, not financial or management issues; most teachers are reluctant to make budgetary or personnel decisions for which they have no training and that take time away from the classroom. There is no easy solution to this concern. Without additional appropriate training and outside technical support, principals and teachers will find it difficult to visualize

and execute roles that differ significantly from the status quo.

This second challenge to educators leads directly to the third challenge--charter schools will provide new roles for teachers. In many instances, teachers will have the chance to be involved in all phases of school management; in some cases, the teachers might own and operate the school. Some of these roles may exceed what many teachers wish to do in their professional lives. Furthermore, many of these changes accompanied by a alteration in roles and responsibilities will surely be perceived as a threat by many teachers unions.

Finally, charter school legislation will also generate a fear among many educators that it will serve as a "back door" for private school vouchers. Minnesota provides one such example. The Minnesota Federation of Teachers lobbied against that state's charter school legislation because it permitted private, nonsectarian schools to become public charter schools.

CHARTER SCHOOLS IN PENNSYLVANIA

The possibilities for charter schools in Pennsylvania appears quite bright. As previously mentioned, Governor Ridge proposed funding for the development of this concept in the Commonwealth to fulfill a pledge he made during his gubernatorial campaign. In addition, Senator Harold Mowery introduced Senate Bill 377 on February 1, 1995, that would provide for the establishment of charter schools. Cosponsors for this bill include Senators Salvatore, Jubelirer, Schwartz, Heckler, and Peterson. Their proposal was referred to the Senate Education Committee on the day of its introduction. Although no further action has been taken on Senate Bill 377 at this time, one can speculate that Senator Mowery and his cosponsors are in dialogue with the new Administration to fashion a measure agreeable to both branches.

Senate Bill 377 would authorize the establishment of no more than 35 charter schools in public school districts. A maximum of two charter schools could be founded in any one school district. After 35 charter schools have been established, the bill mandates that the State Board of Education would inform the General Assembly in addition to potential sponsors of other charter schools. This provision ensures the presence of a trigger mechanism so that the General Assembly will be able to review the efficacy and efficiency of these schools and determine whether to continue and enlarge the demonstration project.

CONCLUSION

Although charter schools possess great promise, this education innovation is not an instant panacea. Since it represents a serious threat to the status quo, enactment of charter school legislation across the country has been, and will continue to be, a formidable task.

Nevertheless, charter schools offer an avenue to bring together a variety of the most promising reform ideas in order to create highly autonomous and accountable learning environments. In order to better understand the charter school laws that have been enacted across the nation, an appendix has been attached to this report that compares and contrasts provisions of these statutes. The appendix refers to charter laws that are "alive" as being "more autonomous" and charter laws that have spurred little charter activity as "less autonomous."

The question that remains with many observers is whether charter schools will help students both within their confines and across the school system to obtain more rigorous and challenging outcomes. Although it is too early to offer a definitive answer, many educational theorists, policymakers, civic activists, and parents believe that charter schools are an education innovation that must be tried.

ENDNOTES

1. Charles E. Greenawalt, II, ed., *Educational Innovation: An Agenda to Frame the Future* (Lanham, Maryland: University Press of America, 1994), 248.

2. Ted Kolderie, "The Charter Idea in the 1995 Legislative Sessions," Center For Policy Studies, St. Paul, Minnesota, February 1995, 2.

3. Louann A. Bierlein and Lori A. Mulholland, "The Promise of Charter Schools," *Educational Leadership*, September 1994, 35.

4. Bierlein and Mulholland, 37.

5. Bierlein and Mulholland, 38.

COMPARISON OF "MORE AUTONOMOUS" CHARTER SCHOOL LAWS

STATE YEAR PASSED	ARIZONA 1994	CALIFORNIA 1992	COLORADO 1993	MASSACHUSETTS 1993	MICHIGAN 1993	MINNESOTA 1991
GENERAL ISSUES:						
Date of Implementation	1994	1992	1993	1995	1994	1992
Number Allowed in State	unlimited for local board sponsorship; up to 25 per year per state board	100	50 up to July, 1997, after which limit is removed	25; number of charter students not to exceed 0.75 of 1 percent of public school students	no limit if sponsor is district or university; 1 if sponsor is community college	originally 8, increased to 20 in 1993
Number Allowed per School District	unlimited	10	—	less than 5 in Boston less than 5 in Springfield less than 2 in any other city	—	originally 2, increased to 5 in 1993
Preference Given to	—	schools which target low-achieving students	schools which target at-risk students (13 of 50 must focus on this)	—	—	—
*Automatically Free from Most State Education Code/District Rules - Super Waiver**	yes, except: health, safety, civil rights, audit and student assessments, special education, and insurance	yes, except health, safety, civil rights, state pupil assessments	no, only from state/district policies as agreed to in charter	yes, except: health, safety, civil rights, state pupil assessments	yes, except: health, safety, civil rights, school improvement, competitive bidding	yes, except: health, safety, civil rights, special education
Legally Autonomous	yes, if state sponsored; depends on charter if local board sponsored	depends on charter	no, under local board authority	yes, organized as nonprofit corporation	yes, organized as non-profit	yes, organized as non-profit or cooperative
Automatically Autonomous for 100 percent "Operations" Funding	generally yes - if local board sponsored, receive district's average cost per pupil; if state sponsored, state funding formula determines amount	generally yes	no, but will get at least 80 percent	generally yes	generally yes	generally yes
Length of Charter	5 years	up to 5 years	up to 5 years	5 years	—	up to 3 years
Private School Eligibility for Charter Schools	yes, must be nonsectarian	no	no	no	no; MI constitution forbids public dollars going to private K-12 schools	yes, must be nonsectarian

STATE YEAR PASSED	ARIZONA 1994	CALIFORNIA 1992	COLORADO 1993	MASSACHUSETTS 1993	MICHIGAN 1993	MINNESOTA 1991
Public Schools Eligible for Charters	all or portions of existing school, or new school	all or portions of existing school, or new school	all or portions of existing school, or new school	all or portions of existing school, or new school	—	all or portions of existing school, or new school
GROUPS INVOLVED IN THE PROCESS						
Organizers	any public body, private person, or private organization	any individual can circulate a petition to start a school	any individual or group	more than two certified teachers, or more than 10 parents, or any other individuals or groups	any individual or entity	licensed teachers
Sponsor	1) any local school board; 2) State Board of Education; or 3) State Board for Charter Schools	local school board	local school board	state secretary of education	board of a local or intermediate school district, community college, or state public university	any local school board
Final Approval	none needed	none needed	none needed	none needed	none needed	state board of education
Appeals Process	none; can simply seek other sponsor	county board of education	state board of education	none	when local district denies proposal, organizers may have question placed on ballot for next school election	state board of education
Support Needed from Teacher/Staff Parents for School Conversion	—	10 percent of teachers in school district or 50 percent of teachers at a school in the district	"adequate number" of parents, teachers, pupils	—	—	90 percent of teachers at the school
School Governance Structure	as specified in charter agreement	as specified in charter agreement	as specified in charter agreement	board of trustees	board of directors	board of directors (more than 50 percent must be teachers at the school)
ADMISSIONS STANDARDS						
Cannot Limit Student Admission Based on	ethnicity, national origin, gender, income level, disabling condition, proficiency in the English language, or athletic ability	race, ethnicity, religion, national origin, gender or residence of pupil	disability, race, creed, color, gender, national origin, religion, ancestry, or need for special education services	race, color, national origin, creed, sex, ethnicity, sexual orientation, mental or physical disability, age, ancestry, athletic performance, special need, proficiency in English language, or academic achievement	intellectual/athletic ability, measures of achievement/aptitude, handicapped status, or any other basis that would be illegal if used by a district	race, ethnicity, religion, intellectual or athletic ability, measures of achievement or aptitude

STATE YEAR PASSED	ARIZONA 1994	CALIFORNIA 1992	COLORADO 1993	MASSACHUSETTS 1993	MICHIGAN 1993	MINNESOTA 1991
Can Limit Student Admission by	age group or grade level	admission requirements if applicable; however, must be nondiscriminatory	—	grade levels, areas of focus of school, maintenance of reasonable academic standards	age/grade level or other criteria allowed by districts	age, grade level
Priority Status for Resident Students	if sponsored by local board, must give preference to students within district boundaries	an existing school converting to charter status must give preference to resident students	open to any child residing in district, if district has open enrollment, then out of district students may attend	priority is given to students residing in city/town where school is located and siblings	if sponsor is local/intermediate district, or community college -- open to any child in district; if university sponsors - open to any child who is a MI resident	yes, priority is granted as long as school reflects racial and ethnic diversity of area
EMPLOYMENT ISSUES						
Charter School Teachers	charter must specify employee qualifications, certification not required	charter must specify required employee qualifications; certification not required	certified teachers only (unless approved for waiver)	charter must specify required employee qualifications; certification not required	if local/intermediate district sponsors - certificated teachers; if community college/university sponsors - can also employ own post-secondary faculty	certified teachers only
Job Security	within 3 years, teacher maintains employment preference (and salary status) if suitable position is available in former district	charter describes teachers' rights to return to district employment	get 1 year leave of absence that can be renewed; at end of 3 years, a return is negotiated	districts grant teachers 2 year leave of absence; can extend for 2 years then teacher must resign or return to district	HB 5125 allows teachers to maintain district tenure	districts must grant teachers leave of absence for length of time requested
Retirement Benefits	intent is to remain part of teacher retirement system, however, law is unclear	must specify manner in which employees will be covered by state or federal retirement system	remain members of public employee retirement association or Denver Public Schools retirement	eligible for state teacher retirement system	HB 4366 makes teachers eligible for MI Public School Employees' Retirement System	employees have district retirement benefits by paying all contributions
Collective Bargaining	"meet and confer" depends on charter	depends on charter	school may bargain with district or as a single unit	school must bargain as a single unit	if local board sponsors - same agreements apply	school must bargain as a single unit

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COMPARISON OF "LESS AUTONOMOUS" CHARTER SCHOOL LAWS

STATE YEAR PASSED	HAWAII 1994	GEORGIA 1993	KANSAS 1994	NEW MEXICO 1993	WISCONSIN 1993
GENERAL ISSUES:					
Date of Implementation	1994	1993	1994	1994	1993
Number Allowed in State	25	no limit	15	5	10
Number Allowed per School District	state only has one school district	no limit	2	—	2
Preference Given to:	—	—	—	—	schools which will serve children at-risk
Automatically Free from Most State Education Code/District Rules -- "Super Waiver"	yes, except: collective bargaining, procurement, civil rights, health and safety requirements	yes, possibly most; or from state/district policies as agreed to in charter	no, must apply to state for waivers	no, must apply to state for waivers	exempt from most state laws, but not district policies
Legally Autonomous	unclear, but teachers remain employees of state (i.e., district)	no, under local board authority	no, under local board authority	no, under local board authority	no, under local board authority
Automatically Autonomous for 100% "Operations" Funding	intent is "yes," but may only receive the average per pupil amount appropriated to DOE	no, funding amount is established in charter	no, funding amount is established in charter	no, appropriate administrative costs can be withheld	no, funding amount is established in charter
Length of Charter	4 years	3 years	3 years	5 years	up to 5 years
Private School Eligibility for Charter Status	no	no	no	no	no
Public Schools Eligible for Charters	only entire existing school	all or portions of existing school, or new school	all or portions of existing school, or new school	entire existing schools only	all or portions of existing school, or new school
GROUPS INVOLVED IN THE PROCESS:					
Organizers	existing public schools	any Georgia public school faculty-staff	a school building, a school district employees group, and educational services contractor, or any other person or entity	existing school personnel and parents	any individual or the local school board
Sponsor	state board of education reviews/accepts plan	the local school board	the local school board	state board of education	the local school board
Final Approval	none needed	state board of education	state board of education ensures that charters approved by districts do not violate federal, state laws	none needed	state supt. of public instruction

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STATE YEAR PASSED	HAWAII 1994	GEORGIA 1993	KANSAS 1994	NEW MEXICO 1993	WISCONSIN 1993
Appeals Process	none	state board allows resubmission of petition	none	none	none
Support Needed from Teacher/Staff/Parents for School Conversion	3/5ths of school's admin., teachers, support staff, and parents	≥ ⅔ of faculty and staff ≥ ⅔ parents in meeting to initiate petition	charters must describe the level of interest and support from district employees, parents, and community	65% of faculty, and parent involvement and support	10% of teachers in district or 50% at one school in district required in some cases
School Governance Structure	must develop local governing board composed of school's principal and at least one representative of the instructional staff, support staff, parents, and student body.	as specified in charter agreement	as specified in charter agreement	budget is site-base managed	as specified in charter agreement
ADMISSION STANDARDS:					
Cannot Limit Student Admission Based on:	not specified; existing enrollment policies apply	—	—	—	sex, race, religion, national origin, ancestry, pregnancy, marital/parental status, sexual orientation, physical, mental, emotional or learning disability
Can Limit Student Admission by:	not specified; existing enrollment policies apply	—	—	—	admission requirements if applicable; however, must be nondiscriminatory
Priority Status for Resident Students	not specified; existing enrollment policies apply	priority given to students in attendance zone; other students permitted as per charter	—	(as per ed. code) priority is given to students in attendance zone of school	priority is given to students in attendance zone of school
EMPLOYMENT ISSUES:					
Charter School Teachers	certified teachers	certified teachers (unless waived)	certified teachers (unless waived)	certified teachers (unless waived) or alternative licenses	licensed teachers
Job Security	remain state employees	remain district employees	remain district employees but terms and conditions of employment to be set in charter	remain district employees	remain district employees
Retirement Benefits	remain state employees	remain district employees	remain district employees	remain district employees	remain district employees
Collective Bargaining	continues as is, as part of district/state system	no collective bargaining allowed; "meet and confer" remains as is	—	continues as is since remain district employees; but could waive certain provisions	continues as is since remain district employees

— = not addressed in legislation

Source: Morrison Institute for Public Policy (602-965-4525)
Arizona State University